

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KEVEN JOHNSON,

Plaintiff,

v.

RICK ROUSTIO, et al.,

Defendants.

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Case No. 3:04-cv-784-DRH

REPORT AND RECOMMENDATION

Before the Court, *sua sponte*, is the issue of whether Plaintiff's claims in this action should be dismissed for failure to prosecute.

Plaintiff Kevin Johnson filed this Section 1983 action alleging that he was placed in a mental health facility without due process. On March 3, 2006, this action was stayed pursuant to Younger v. Harris, 401 U.S. 37 (1971), pending Plaintiff's ongoing criminal matter and all appeals (Doc. 25). In the order staying this case, the Court ordered Plaintiff to submit a status report every ninety days to inform the Court of the status of his criminal proceedings. Plaintiff ceased filing these reports, however, with the last report filed on October 17, 2006 (Doc. 34). In this last status report, Plaintiff informed the Court that he was in the process of appealing his criminal matter (Doc. 34).

When Plaintiff failed to submit a status report in January, April, and July of 2007, the Court Ordered Plaintiff to file a brief status report by August 15, 2007. Plaintiff never responded to the Court's Order. Plaintiff has several times failed to keep the Court apprised of his address, failed to file timely status reports, and has generally demonstrated an unwillingness to prosecute this action. Accordingly, the Court **RECOMMENDS**, *sua sponte*, that this matter be dismissed with prejudice for failure to prosecute under Rule 41(b).

Pursuant to 28 U.S.C. § 636(b)(1) and SDIL-LR 73.1(b), the parties shall have ten (10) days after service of this Recommendation to file written objections thereto. The failure to file a timely objection may result in the waiver of the right to challenge this Recommendation before either the District Court or the Court of Appeals. Snyder v. Nolen, 380 F.3d 279, 284 (7th Cir. 2004); United States v. Hernandez-Rivas, 348 F.3d 595, 598 (7th Cir. 2003).

DATED: January 25, 2008

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge